

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
WILLIAM M. TYREE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-11430-RCL
)	
UNITED STATES ARMY, CID AGENT)	
PAUL MASON (Retired) and CID)	
AGENT JOSEPH BUREFENSKI,)	
)	
Defendants.)	
_____)	

DEFENDANTS' MOTION TO DISMISS THE
PLAINTIFF'S COMPLAINT FOR LACK OF SERVICE

The defendants move this Court to dismiss the plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(5). As grounds therefor, the defendants state that service has not been accomplished as required by Rule 4(i) of the Fed. R. Civ. P. as ordered by this Court. As a result of the plaintiff's failure of service, this Court lacks personal jurisdiction over the defendants and this action must be dismissed.

WHEREFORE, based upon the arguments and authorities submitted in the attached

Memorandum of Law, the defendants respectfully move this Court to dismiss the Plaintiff's Complaint.

Respectfully submitted,

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

By: /s/ Michael Sady
Michael Sady
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Dated: April 11, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this 11th day of April, 2005, served upon the Plaintiff, pro se, a copy of the foregoing document at MCI Walpole, P.O. Box 100, South Walpole, MA 02070 by depositing in the United States mail first-class a copy of same in an envelope bearing sufficient postage for delivery.

/s/ Michael Sady
Michael Sady
Assistant United States Attorney

LOCAL RULE 7.1(A)(2) CERTIFICATION OF COMPLIANCE

Because Plaintiff is a prisoner currently incarcerated in a state correctional facility, counsel for the United States respectfully requests leave to file this Motion and accompanying Memorandum of law without a 7.1 conference.

/s/ Michael Sady
Michael Sady
Assistant United States Attorney